IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1253 (MS) OF 2001

(OLD NO. 40309 OF 2000)

Guljari Singh,
S/o Sri Natthu Singh,
R/o Village, Gumalgaon,
Pattu Kwili, District-Tehri Garhwal. .....Petitioner.

Versus

1. District Judge, Tehri Garhwal.
2. Vijay Lal, S/o Natthi,
   R/o Village Gulamgaon,
   Patti Kwili, District-Tehri Garhwal. ....Respondents.

Dated: 09.05.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Shobhit Sahari, Advocate for the petitioner and Standing Counsel for the respondent no.1.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the order-dated 14.08.2000 (Annexure No. 5 to the writ petition) passed by the respondent no.1.

Briefly stated, the application for amendment has been allowed on the ground that it will not change the nature of the proceedings. The findings of the court below is quoted below:-

"*The learned lower court has wrongly refused the proposed amendment on the ground that the proposed amendment would wholly change the nature of the suit because the proposed amendment was necessary as a result of the change in circumstances during the pendency of the*

suit after rejection of the temporary injunction application of the plaintiff and the proposed amendment, if allowed, would save multiplicity of the proceedings and the defendant may be compensated by costs.

The result is that the revision deserves to be allowed and the impugned order is liable to be set aside.

ORDER

The revision is hereby allowed with costs and the order of the learned trial Court dated 18.6.99 is hereby set aside. The amendment application 39A of the plaintiff is allowed on payment of Rs. 100/- as costs to the defendant opp. Party."

I do not find any illegality in the order passed by the court below. However, it will be open for the parties to exchange their pleadings on the basis of the amendment, which has been allowed and contest the case on merit before the trial Court on the basis of the amended plea.

The writ petition lacks merit and is dismissed. No order as to costs.

(Rajesh Tandon, J.)

09.05.2006
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